

Notice of Agency Rule-making Proposal

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

CHAPTER NUMBER AND TITLE: Chapter 1, Definitions; Chapter 2, Advisory Rulings; Chapter 3, License Requirements for Acupuncturists; Chapter 4, License Requirement for Naturopathic Doctors; Chapter 5, Standards for Continuing Professional Education for Acupuncturists and Naturopathic Doctors; Chapter 7, Grounds for Discipline; Chapter 8, Code of Ethics; Chapter 9, Fees (repeal)

PROPOSED RULE NUMBER (leave blank; assigned by Secretary of State):

CONTACT PERSON FOR THIS FILING: Geraldine Betts, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CONTACT PERSON FOR SMALL BUSINESS INFORMATION (if different): Geraldine Betts

PUBLIC HEARING (if any): June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

BRIEF *SUMMARY: In this rulemaking summary the board proposes to: (1) better describe the documentation required to establish eligibility for licensure; (2) standardize the format of the licensing chapters for acupuncturists and naturopathic doctors; (3) eliminate a letter from a master or licensed acupuncturist as a means of satisfying the 300 hour clinical experience requirement for licensure as an acupuncturist or specialty certification of a naturopathic doctor; (4) set forth requirements and responsibilities for supervisors of acupuncture student interns; (5) change the continuing education requirements; (6) revise the grounds for discipline; (7) amend the code of ethics; (8) repeal the fee chapter; and (9) repeal obsolete and unnecessary provisions. A more detailed description and the text of the proposed rule are available at www.maine.gov/professionallicensing.

IMPACT ON MUNICIPALITIES OR COUNTIES (if any): None

STATUTORY AUTHORITY FOR THIS RULE: 32 MRSA §§12503, 12512, 12516(1), 12525, 12526(3); 5 MRSA §§8051, 9001(4)

SUBSTANTIVE STATE OR FEDERAL LAW BEING IMPLEMENTED (if different): None

E-MAIL FOR OVERALL AGENCY RULE-MAKING LIAISON: anne.l.head@maine.gov

* Check one of the following two boxes.

☐ The above summary is for use in both the newspaper and website notices.

☒ The above summary is for the newspaper notice only. A more detailed summary / basis statement is attached.

Please approve bottom portion of this form and assign appropriate AdvantageME number.

APPROVED FOR PAYMENT

Anne L. Head
(authorized signature)

DATE:

5/30/13

FUND	AGENCY	ORG	APP	JOB	OBJT	AMOUNT
014	02A	4450	01		4946	

Notice of Agency Rule-making Proposal

DETAILED BASIS STATEMENT / SUMMARY: In this rulemaking proceeding the board proposes to:

- Better describe the documentation required to establish eligibility for licensure.
 - Standardize the format of the licensing chapters for acupuncturists and naturopathic doctors.
 - Eliminate a letter from a master or licensed acupuncturist as a means of satisfying the 300 hour clinical experience requirement for licensure as an acupuncturist or specialty certification of a naturopathic doctor.
 - Require that the supervisor of an acupuncture student intern maintain an active, unrestricted license and be in full compliance with any disciplinary action imposed by the board.
 - Provide that a supervising acupuncturist is legally and ethically responsible for the professional activities of an intern under his or her supervision.
 - Change the continuing education requirement for acupuncturists from 30 hours every two years to 15 hours annually.
 - Reduce the base line continuing education requirement for naturopathic doctors from 37 hours annually, of which at least 7 hours must be in pharmacology, to 25 hours annually, of which at least 7 hours must be in pharmacology.
 - Expand the number of recognized sponsors and providers of continuing education activities by committing the board to publish a list of pre-approved sponsors and providers at the beginning of each license year. The current list of approved sponsors and providers is attached to this notice. Similar to the procedure in the current rules, a licensee may also request the board to specifically approve a continuing education activity that is not offered by a pre-approved sponsor or provider.
 - Eliminate the 15-hour restriction in the current rules for audio- or video-taped presentations, slides, programmed instruction or computer-assisted instruction that applies to naturopathic doctors. Such activities are eligible for continuing education credit under the proposed rule without limitation for both acupuncturists and naturopathic doctors, provided that the sponsor or provider is on the list of pre-approved sponsors and providers described above, or the board approves the continuing education activity upon application by an individual licensee as discussed above.
 - Revise the grounds for discipline to include, among other changes,
 - Billing patients or third-party providers for services not rendered.
 - Failing to practice acupuncture in accordance with the Clean Needle Technique Manual for Acupuncturists.
 - Billing patients or third-party providers inaccurately, excessively or unfairly.
 - Failing to maintain professional boundaries in relationships with patients or engaging in a dual relationship that impairs treatment, exploits practitioner/patient trust, or fosters an undue dependency of the patient on the practitioner.
 - Engaging in a sexual relationship with a former patient within the 6 month period following the end of the professional relationship.
 - Engaging in a sexual relationship with a former patient after the 6 month period following the end of the professional relationship that exploits the trust established during the professional relationship.
 - Amending the code of ethics applicable to licensed acupuncturists and naturopathic doctors.
 - Repealing the fee chapter. (Fees are now set by the Director of the Office of Professional and Occupational Regulation.)
 - Repealing obsolete and unnecessary material.
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Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 1, Definitions

STATUTORY AUTHORITY: 32 MRSA §12503

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment deletes definitions that appear in statute or are unnecessary to the board's rules, updates definitions to identify relevant certification and accreditation organizations, amends the definition of "baccalaureate degree" and replaces the definition of "prescription drug or legend drug" with a definition of "non-controlled legend drug."

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12: (A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 2, Advisory Rulings

STATUTORY AUTHORITY: 5 MRSA §§8051, 9001(4)

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment deletes provisions relating to board meetings, agendas and public records that need not be in rule. This amendment also conforms the provisions relating to advisory rulings to like rule provisions adopted by other licensing boards within the same work unit as the Board of Complementary Health Care Providers.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:
(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 3, Licensure Requirements for Acupuncturists

STATUTORY AUTHORITY: 32 MRSA §§12503, 12512

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment better describes the documentation required to establish eligibility for licensure, standardizes the format of the licensing chapters for acupuncturists and naturopathic doctors, eliminates a letter from a master or licensed acupuncturist as a means of satisfying the 300 hour clinical experience requirement, requires that the supervisor of an acupuncture student intern maintain an active, unrestricted license and be in full compliance with any disciplinary action imposed by the board, and provides that a supervising acupuncturist is legally and ethically responsible for the professional activities of an intern under his or her supervision.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 4, Licensure Requirement for Naturopathic Doctors

STATUTORY AUTHORITY: 32 MRSA §§12503, 12525

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment better describes the documentation required to establish eligibility for licensure, standardizes the format of the licensing chapters for acupuncturists and naturopathic doctors, and eliminates a letter from a master or licensed acupuncturist as a means of satisfying the 300 hour clinical experience requirement for specialty certification.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 5, Standards for Continuing Professional Education for Acupuncturists and naturopathic Doctors

STATUTORY AUTHORITY: 32 MRSA §§12503, 12516(1), 12526(3)

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment changes the continuing education requirement for acupuncturists from 30 hours every two years to 15 hours annually, reduces the base line continuing education requirement for naturopathic doctors from 37 hours annually, of which at least 7 hours must be in pharmacology, to 25 hours annually, of which at least 7 hours must be in pharmacology, and expands the number of recognized sponsors and providers of continuing education activities by committing the board to publish a list of pre-approved sponsors and providers at the beginning of each license year. (The current list of approved sponsors and providers is attached to the notice of rulemaking). Similar to the procedure in the current rules, a licensee may also request the board to specifically approve a continuing education activity that is not offered by a pre-approved sponsor or provider.

This amendment also eliminates the 15-hour restriction in the current rules for audio- or video-taped presentations, slides, programmed instruction or computer-assisted instruction that applies to naturopathic doctors. Such activities are eligible for continuing education credit under the proposed rule without limitation for both acupuncturists and naturopathic doctors, provided that the sponsor or provider is on the list of pre-approved sponsors and providers described above, or the board approves the continuing education activity upon application by an individual licensee as discussed above.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to

comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 7, Grounds For Discipline

STATUTORY AUTHORITY: 32 MRSA §12503

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment revises the grounds for discipline to include, among other changes:

1. Billing patients or third-party providers for services not rendered. (Section 3(1)(B)(5))
2. Failing to practice acupuncture in accordance with the Clean Needle Technique Manual for Acupuncturists. (Section 3(3)(A-1))
3. Billing patients or third-party providers inaccurately, excessively or unfairly. (Section 3(3)(K))
4. Failing to maintain professional boundaries in relationships with patients or engaging in a dual relationship that impairs treatment, exploits practitioner/patient trust, or fosters an undue dependency of the patient on the practitioner. (Section 3(3)(M))
5. Engaging in a sexual relationship with a former patient within the 6 month period following the end of the professional relationship. (Section 3(3)(R))
6. Engaging in a sexual relationship with a former patient after the 6 month period following the end of the professional relationship that exploits the trust established during the professional relationship. (Section 3(3)(S))

The new provisions in items 1, 3, 4, 5 and 6 above are adapted from or suggested by the Code of Ethics of the National Certification Commission for Acupuncture and Oriental Medicine (October 14, 2008).

This amendment also deletes Section 1, Disciplinary Procedures, and Section 2, Grounds for Discipline, from this chapter. Section 1 is obsolete and has been superseded by the OPOR Administrative Complaint Procedures followed by all the OPOR licensing programs. Section 2 is largely covered by 10 MRSA §8003(5-A)(A) and Section 3 of this chapter.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 8, Code of Ethics

STATUTORY AUTHORITY: 32 MRSA §12503

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This amendment amends the code of ethics applicable to licensed acupuncturists and naturopathic doctors. The amended code is based on the Code of Ethics of the American Association of Naturopathic Physicians (August 2012) and the Code of Ethics of the National Certification Commission for Acupuncture and Oriental Medicine (October 14, 2008). Other provisions from the NCCAOM code have been added to Chapter 7, Grounds For Discipline. For more information, see the Rule-Making Fact Sheet for that chapter.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:
ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Note: If necessary, additional pages may be used.

Rule-Making Fact Sheet

(5 MRSA §8057-A)

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, 35 State House Station, Augusta, ME 04333, tel. (207) 624-8625, email geraldine.l.betts@maine.gov

CHAPTER NUMBER AND RULE TITLE: Chapter 9, Fees (repeal)

STATUTORY AUTHORITY: None

DATE AND PLACE OF PUBLIC HEARING: June 26, 2013, 9:00 a.m., Department of Professional and Financial Regulation, 76 Northern Avenue, Gardiner, Maine

COMMENT DEADLINE: July 8, 2013

PRINCIPAL REASON OR PURPOSE FOR PROPOSING THIS RULE: General clean-up of the board's rules; revision of continuing education provisions (Chapter 5)

BRIEF SUMMARY OF RELEVANT INFORMATION CONSIDERED DURING DEVELOPMENT OF THE RULE (PRIMARY SOURCES): Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, Code of Ethics of American Association of Naturopathic Physicians, Code of Ethics of National Certification Commission for Acupuncture and Oriental Medicine, sexual misconduct provisions of other OPOR licensing boards, provisions of current board rules, professional judgment.

ANALYSIS AND EXPECTED OPERATION OF THE RULE: This chapter is repealed. License fees are now set by the Director of Professional and Occupational Regulation pursuant to 10 MRSA §8003(2-A)(D) and 32 MRSA §12514-A.

FINDINGS UNDER CRITERIA CONTAINED IN EXECUTIVE ORDER 20 FY 11/12:

(A) The proposed rule will not negatively impact job growth or creation; (B) There are no fees included in the rule; (C) There is no cost to the public in terms of time and money required to comply with the rule; (D) No other state laws or rules already address the subject matter of this rule; (E) There are no relevant federal standards.

FISCAL IMPACT OF THE RULE: None

FOR RULES WITH FISCAL IMPACT OF \$1 MILLION OR MORE, ALSO INCLUDE:

ECONOMIC IMPACT, WHETHER OR NOT QUANTIFIABLE IN MONETARY TERMS:

INDIVIDUALS OR GROUPS AFFECTED AND HOW THEY WILL BE AFFECTED:

BENEFITS OF THE RULE:

Economic Impact Statement

(5 MRSA §8052(5-A))

AGENCY: Department of Professional and Financial Regulation, Office of Professional and Occupational Regulation, Board of Complementary Health Care Providers

NAME, ADDRESS, PHONE NUMBER OF AGENCY CONTACT PERSON: Geraldine Betts, Board Administrator, Office of Professional and Occupational Regulation, 35 State House Station, Augusta, ME 04333, (207) 624-8625

CHAPTER NUMBER AND RULE TITLE:

Chapter 1	Definitions
Chapter 2	Advisory Rulings
Chapter 3	License Requirement for Acupuncturists
Chapter 4	License Requirement for Naturopathic Doctors
Chapter 5	Standards for Continuing Education for Acupuncturists and Naturopathic Doctors
Chapter 7	Grounds for Discipline
Chapter 8	Code of Ethics
Chapter 9	Fees (repealed)

TYPES AND NUMBER OF SMALL BUSINESS SUBJECT TO THE RULE: The Board of Complementary Health Care Providers (“the board”) licenses 147 acupuncturists and 36 naturopathic doctors. Title 5 MRSA §8052(5-A) defines “small business” as businesses that have 20 or fewer employees. The majority of the board’s licensees are small business as defined in 5 MRSA §8052(5-A).

PROJECTED REPORTING, RECORD-KEEPING AND OTHER ADMINISTRATIVE COSTS REQUIRED FOR COMPLIANCE WITH THE PROPOSED RULE, INCLUDING THE TYPE OF PROFESSIONAL SKILLS NECESSARY FOR PREPARATION OF THE REPORT OR RECORD: None

PROBABLE IMPACT ON AFFECTED SMALL BUSINESS: None

LESS INTRUSIVE OR LESS COSTLY, REASONABLE ALTERNATIVE METHODS OF ACHIEVING THE PURPOSES OF THE PROPOSED RULE: None

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 1: DEFINITIONS

Summary: This chapter defines certain professional terms used throughout the board's rules.

1. **Acupuncture.** ~~“Acupuncture” means the insertion of fine gauge sterile needles through the skin using Clean Needle Technique at specific points on or near the surface of the body with or without the palpation of specific points on the body and with or without the application of electric current or heat to the needles or skin, or both. The practice of acupuncture is based on traditional oriental theories and serves to normalize physiological function, treat certain diseases and dysfunctions of the body, prevent or modify the perception of pain and promote health and well-being.~~[deleted]
- 1-A. **ACAOM.** “ACAOM” means the Accreditation Commission for Acupuncture and Oriental Medicine or its successor.
2. ~~**Acupuncture continuing education program.** “Acupuncture continuing education program” means classes, seminars, programs, lectures, conferences, courses, preceptorships and/or workshops. Home study courses do not meet the requirements.~~[deleted]
3. ~~**Acupuncture intern.** “Acupuncture intern” means an acupuncture student enrolled in an acupuncture internship program approved by the board that involves practical training, including needle insertion on human subjects.~~[deleted]
4. ~~**Acupuncture Internship.** “Acupuncture Internship” means a program approved by the board or offered by an institution recognized by the NCCAOM, which is designed to provide the intern with a structured learning experience in the basic skills and knowledge necessary for the independent practice of acupuncture and state licensure.~~[deleted]
5. ~~Approved naturopathic medical college. “Approved naturopathic medical college” means a college or program granting the degree of doctor of naturopathic medicine or doctor of naturopathy approved by the board that:~~
 - A. ~~Is accredited by an accrediting agency recognized by the U.S. Federal Government; or~~
 - B. ~~Is a candidate for accreditation with such an agency.~~[deleted]
6. **Baccalaureate Degree.** ~~“Baccalaureate Degree”~~degree means the traditional degree given by an accredited institution of higher learning after the equivalent of four years of undergraduate level work, i.e.g., Bachelor of Arts, or Bachelor of Science.
7. **Board.** ~~“Board” means the Board of Complementary Health Care Providers.~~[deleted]

8. ~~**Board Approved Acupuncture Internship Program**~~**Board-approved acupuncture program.** For purposes of 32 MRSA §12511(1), ~~“Board Approved Acupuncture Internship Program~~**board-approved internship program”** means ~~one approved by NACSCAOM, NCCAOM or at the discretion of the board~~ **a structured clinical learning experience in the basic skills and knowledge necessary for the independent practice of acupuncture that is either part of an educational program approved by ACAOM or has been approved by the board.**
9. ~~**Clean Needle Technique.**~~ “Clean Needle Technique” means the use of sterile needles for acupuncture treatment following national acupuncture professional guidelines as described in the current edition of the “Clean Needle Technique Manual.”~~[deleted]~~
- 9-A. ~~**CNME.**~~ “CNME” means the Council on Naturopathic Medical Education or its successor.
10. ~~**Collaborative relationship.**~~ “Collaborative relationship” means a professional relationship in which a naturopathic doctor will collaborate on a quarterly basis for a period of one (1) year with a licensed allopathic or osteopathic physician in order to perform a historical review of the naturopathic doctor’s prescriptions of noncontrolled legend drugs.~~[deleted]~~
11. ~~**Homeopathic preparation.**~~ “Homeopathic preparation” means medicine prepared according to the “Homeopathic Pharmacopoeia of the United States Revised Service” (Nov. 1995).~~[deleted]~~
- 11-A. ~~**NABNE.**~~ “NABNE” means the North American Board of Naturopathic Examiners or its successor.
12. ~~**NACSCAOM.**~~ “NACSCAOM” means the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.~~[deleted]~~
13. ~~**Natural antibiotics.**~~ “Natural antibiotics” means antimicrobial, antifungal and antiprotozoal agents that are naturally occurring substances or are manufactured substances that are substantially identical to those naturally occurring substances.~~[deleted]~~
14. ~~**Naturopathic acupuncture.**~~ “Naturopathic acupuncture” means the insertion of acupuncture needles into specific points on the skin to treat human disease and impairment and to relieve pain. The practice of naturopathic acupuncture is only within the scope of practice of naturopathic doctors certified pursuant to 32 MRSA section 12525.~~[deleted]~~
15. ~~**Naturopathic continuing education program.**~~ A “naturopathic continuing education program” means classes, institutes, lectures, conferences, workshops, naturopathic and/or medical journals, audio or videotaped presentations, slides, programmed instruction or computer assisted instruction and preceptorships.~~[deleted]~~
16. ~~**Naturopathic doctor.**~~ “Naturopathic doctor” means a person authorized and licensed to practice naturopathic medicine under this chapter.~~[deleted]~~
17. ~~**Naturopathic manipulative therapy.**~~ “Naturopathic manipulative therapy” means the manually administered or mechanical treatment of body structures or tissues in accordance with naturopathic principles for the purpose of restoring normal physiological function to the body by normalizing and balancing the musculoskeletal system of the body.~~[deleted]~~
18. ~~**Naturopathic medicine.**~~ “Naturopathic medicine” means a system of health care for the prevention, diagnosis and treatment of human health conditions, injuries and diseases that uses

- ~~education, natural medicines and therapies to support and stimulate the individual's intrinsic self-healing processes.[deleted]~~
19. **Naturopathic physical medicine.** ~~“Naturopathic physical medicine” means the therapeutic use of physical agents of air, water, heat, cold, sound, light and electromagnetic nonionizing radiation and the physical modalities of electrotherapy, diathermy, ultraviolet light, ultrasound, hydrotherapy, naturopathic manipulative therapy, therapeutic exercise and acupuncture if the provider is certified pursuant to 32 MRSA section 12525, subsection 3.[deleted]~~
20. **NCCAOM.** “NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine or its successor.
- 20-A. **Non-controlled legend drug.** For purposes of 32 MRSA §12522(4)(B), “non-controlled legend drug” means a drug—
- (1) That lawfully bears, at a minimum, the symbol “Rx Only” in accordance with 21 USC §353(b)(4)(A) to indicate that the drug may only be dispensed upon prescription of a licensed practitioner; and
- (2) Is not a controlled substance as defined in 32 MRSA §12522(5).
21. **NPLEX.** “NPLEX” means the Naturopathic Physicians Licensing Examination administered by NABNE or a successor examination.
- 21-A. **Office.** “Office” means the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation.
22. **Office procedures.** ~~“Office procedures” means methods for the repair and care incidental to superficial lacerations and abrasions, superficial lesions and the removal of foreign bodies located in the superficial tissues. The use of antiseptics and local anesthetics in connection with these methods is permitted. The use of general, regional or spinal anesthetics, major surgery, surgery of the body cavities or specialized surgeries such as plastic surgery, surgery involving the eye or surgery when tendons are involved is not permitted.[deleted]~~
23. **Person.** ~~“Person” means any individual, firm, partnership, corporation or other association or organization.[deleted]~~
24. ~~[deleted]~~ **Prescription drug or legend drug.** “Prescription drug” or “legend drug” means a drug which:
- A. ~~Under federal law, is required, prior to being dispensed or delivered, to be labeled with either of the following statements:~~
1. ~~“Caution: Federal law prohibits dispensing without prescription.”; or~~
2. ~~“Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.”; or~~
- B. ~~Is required by an applicable federal or state law or rule to be dispensed on prescription only or is restricted to use by practitioners only.~~

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25. **Specialty certification.** ~~“Specialty certification” means a naturopathic doctor who has received a specialty certification by the board pursuant to 32 MRSA section 12525 (3).[deleted]~~
26. **Topical medicine.** ~~“Topical medicine” means topical analgesics, anesthetics, antiseptics, scabicides, antifungals and antibacterials.[deleted]~~
27. **Topical local anesthetic.** ~~“Topical local anesthetic” means the local application of anesthetic which may be injected into the intra dermal subcutaneous layers of the skin only to the extent necessary to care for superficial lacerations, abrasions and the removal of foreign bodies located in superficial structures not to include the eye.[deleted]~~
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STATUTORY AUTHORITY: 32 MRSA §12503

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 2: ~~GENERAL PROVISIONS~~ ADVISORY RULINGS

Summary: This chapter ~~contains provisions describing the conduct of meetings and hearings, acting on requests for advisory rulings, complaint and investigation procedures and record keeping~~ sets forth procedures for the issuance of advisory rulings by the board.

1. ~~General Provisions. The following describes the manner in which the board conducts meetings, maintains certain records, issues advisory rulings and acts on complaints.~~

~~A. Meetings. Meetings may be called by the board Chairperson or by a majority of the members of the board as may be necessary for carrying out the business of the board. Meetings shall be scheduled to allow sufficient time for advertising meetings. Any member unable to attend a scheduled meeting must contact the board Chairperson or the board's office as soon as possible. Any member of the public may attend board meetings to hear the board's deliberations on board matters but may not participate in board proceedings, unless appearing on the agenda.~~

~~1. Agendas.~~

~~Board meeting agendas shall be prepared by the department designee in conjunction with the board Chairperson. The agenda shall include all business items requested by members of the board providing such request is received by the board at least twelve days in advance of the meeting. Business not included on the agenda may be considered following an affirmative vote of a majority of the board members present. Meeting notices to the board shall be sent to all members of the board at least ten days prior to the meeting date. Upon request, meeting notices shall be sent to others deemed to have interest in the business before the board.~~

~~B. Records. The board shall adopt and use the Department seal to evidence its official acts. The department shall maintain a record of all business conducted by the board and shall preserve, subject to the provisions of 5 MRSA chapter 6, all books, documents and papers entrusted to their care. Records shall be opened to public inspection subject to 1 MRSA chapter 13. Delays in making records available for inspection may be occasioned by action necessary to preserve the security of records, to obtain legal advice, or to prevent disrupting regular business activities and for these reasons it is recommended that written requests be submitted at least three business days in advance of anticipated inspection. Access to written communication with the Department of the Attorney General, criminal history records, materials relating to license examinations, pending complaints, and other records may be restricted subject to 1 MRSA chapter 13 and/or other applicable laws.~~

~~C. Advisory Rulings.~~

1. Authority and Scope. The board, in its discretion, may issue ~~rulings pursuant to 5 MRSA section 9001~~ an advisory ruling concerning the applicability of any statute or rule it administers to an existing factual situation. ~~Advisory rulings will be issued at the board's~~

~~discretion and only upon written request.~~ Each request for an advisory ruling will be ~~individually~~ reviewed to determine whether an advisory ruling is appropriate. The board may decline to issue an advisory ruling when the question is hypothetical, there is sufficient experience upon which to base a ruling, or for any other reason the board deems proper. ~~An advisory ruling is not legally binding upon the board pursuant to 5 MRSA section 9001 of the Administrative Procedure Act.~~

2. Submission. Requests for advisory rulings ~~shall-must~~ be in writing and ~~shall-must~~ set forth in detail all facts pertinent to the question. The board may require additional information as necessary to complete a factual background for its ruling.
3. Acknowledgment. ~~All requests~~ A request for an advisory ~~rulings-ruling~~ will be acknowledged by the board within fifteen days of receipt. Within sixty days of acknowledgment, the board ~~shall-will~~ state whether it will issue a ruling ~~will be given~~. Alternatively, the board may request additional information ~~which is necessary in order~~ to determine whether an advisory ruling is appropriate.
4. Rulings. All advisory rulings ~~shall-will~~ be issued in writing and ~~shall-will~~ include a statement of the facts or assumptions, or both, upon which the ruling is based. The statement ~~shall-will~~ be sufficiently detailed to allow an understanding of the basis of the opinion without reference to other documents. Advisory rulings ~~shall-will~~ be signed by the ~~Chairperson-chair~~ of the board and ~~shall-will~~ be numbered serially in an appropriate ~~serial~~ manner.
5. Disposition. Each completed advisory ruling will be mailed to the requesting party and a copy will be kept by the board in a file or binder established for this purpose. All ~~completed~~ advisory rulings are public documents ~~and shall be available for public inspection during regular business hours~~. In addition, the board may otherwise publish or circulate any advisory ruling as it deems appropriate.

~~D. Hearings. Hearings shall be conducted in accordance with applicable requirements of the Maine Administrative Procedure Act, 5 MRSA chapter 375, section 8001, et seq.~~

STATUTORY AUTHORITY: 5 MRSA §§8051, 9001(4)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 3: LICENSURE REQUIREMENT FOR ACUPUNCTURISTS

Summary: This chapter ~~states-sets forth~~ the requirements for ~~issuance of a license to practice acupuncture, including application, education, experience and references~~licensure as an acupuncturist.

~~Applicants applying for licensure as an acupuncturist must qualify by one of the following methods:~~

1. ~~Applicants applying with a baccalaureate degree:~~

- ~~— A. — A baccalaureate degree from an accredited institution of higher learning listed by the United States Department of Education in publication CS 86-309 (or in the current, updated version) or from any other equivalent institution;~~
- ~~— B. — A minimum of 1,000 hours of classroom instruction in acupuncture and related subjects at an educational institution on file with NCCAOM or an educational institution approved by the board;~~
- ~~— C. — A minimum of 300 hours of clinical experience which includes acupuncture internship in the field of acupuncture; and~~
- ~~— D. — Certification by the National Certification Commission for Acupuncture and Oriental Medicine or its equivalent as determined by the board.[deleted]~~

1-A. Qualification For Licensure

An applicant qualifies for licensure as an acupuncturist by meeting the eligibility requirements set forth in 32 MRSA §12512. For purposes of 32 MRSA §12512(1)(B)(1) (requirement of baccalaureate degree), an “accredited institution of higher learning” is a college or university located in the United States that has been accredited by an accrediting agency recognized by the United States Department of Education, or a college or university located in a foreign country that has achieved a similar level of recognition from its home jurisdiction.

1-B Application For Licensure

An applicant applies for licensure by submitting the application form prescribed by the board, the documentation required by Section 4 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees,” and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents and the required fees.

2. ~~Applicants applying who are licensed as a registered nurse or physician’s assistant:~~

~~_____ A. _____ A license from the State of Maine to practice as a registered professional nurse, or successful completion of the training program and any competency examination required by the Maine Board of Licensure in Medicine to be qualified as a physician's assistant;~~

~~_____ B. _____ A minimum of 1,000 hours of classroom instruction in acupuncture and related subjects at an institution on file with NCCAOM or an educational institution approved by the board;~~

~~_____ C. _____ A minimum of 300 hours of clinical experience in the field of acupuncture; and~~

~~_____ D. _____ Certification by the National Certification Commission for Acupuncture and Oriental Medicine or its equivalent as determined by the board. [deleted]~~

3. ~~Applicants applying for licensure with experience acquired prior to August 9, 1989:~~

~~_____ A. _____ A minimum of 6 months of practicing acupuncture in the State of Maine as of August 9, 1989;~~

~~_____ B. _____ Certification by the National Certification Commission for Acupuncture and Oriental Medicine;~~

~~_____ C. _____ A minimum of 1,000 hours of classroom instruction in acupuncture and related subjects at an institution or approved by the board; and~~

~~_____ D. _____ A minimum of 300 hours of clinical experience in the field of acupuncture. [deleted]~~

4. ~~Documentation Required:~~

~~A1. Documentation Generally:~~

~~The applicant shall submit the documentation described in this Section as necessary to establish eligibility for licensure under 32 MRSA §12512. All documentation documents must be submitted to the board in the English language. An applicant who has earned a degree or has completed classroom hours or clinical experience at an educational institution outside the United States shall submit his or her transcript for evaluation to the World Education Services, Inc., Center for Educational Documentation, Inc. or other transcript analysis service that has been approved by the board, for evaluation.~~

~~B2. Verification of 1,000 ~~hours~~ Hours of ~~classroom~~ Classroom instruction Instruction in Acupuncture and Related Subjects:~~

~~As verification of classroom instruction, the board will accept either of the following: An an official transcript from the an acupuncture school accredited by ACAOM or approved by the board verifying that verifies the number of hours of classroom instruction; or,~~

~~_____ 2. _____ Other documentation at the discretion of the board.~~

~~C3. Verification of 300 ~~hours~~ Hours of ~~clinical~~ Clinical experience Experience in Acupuncture:~~

As verification of clinical experience, the board will accept ~~any of the following:~~an official transcript from an acupuncture school accredited by ACAOM or approved by the board that verifies the number of hours of clinical experience, or other communication at the discretion of the board.

- ~~1. An official transcript from the acupuncture school verifying the number of hours of clinical experience or other communication at the discretion of the board.~~
- ~~2. Letter from master or licensed acupuncturist verifying that the applicant has competency in and has completed the following under supervision of an appropriate qualified or licensed acupuncturist:~~
 - ~~a) Oral examination of the patient;~~
 - ~~b) Medical history taking;~~
 - ~~c) Physical examination;~~
 - ~~d) Formulation of an acupuncture diagnosis and an acupuncture course of treatment; and~~
 - ~~e) Execution and follow up of said course of treatment.~~
- ~~The Master or licensed acupuncturist must show proof of NCCAOM certification or licensure in another State or qualifying credentials as approved by the board.~~

~~D. NCCAOM certification: As verification of NCCAOM certification, the board will accept either of the following:~~

- ~~1. Official copy of NCCAOM certificate from the applicant, or~~
- ~~2. Direct written verification from NCCAOM.~~
4. Verification of NCCAOM Certification

As verification of NCCAOM certification, the board will accept an official copy of the NCCAOM examination results status report verifying the certification of the applicant.

~~E5.~~ Verification of ~~baccalaureate-Baccalaureate degreeDegree:~~

As verification of a baccalaureate degree, the board will accept ~~either of the following: Transcript an official transcript sent directly from the college, or Official a~~ copy of ~~transcript or a~~ diploma ~~from the applicant.~~

~~F6.~~ Verification of ~~licensure-Licensure~~ as a ~~registered-Registered professional-Professional nurseNurse~~

As verification of licensure in the State of Maine as a registered professional nurse, the board will accept ~~the following: Official copy of state license from the applicant, or Written written or on line communication verification~~ from the Maine State Board of Nursing ~~verifying as to~~ the licensure status of the applicant.

~~G7.~~ Verification of ~~completion-Completion~~ of ~~training-Training program-Program~~ and ~~examination-Examination~~ as a ~~physician's-Physician's assistant-Assistant~~

As verification of completion of the training program and any competency examination required by the Maine Board of Licensure in Medicine to be qualified as a physician's assistant, the board will accept the following:

~~1A.~~ Proof of passage of the ~~certification-exam~~ Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants or its successor, and;

~~2B.~~ ~~Official copy of diploma from the applicant~~ An official transcript showing completion of an educational program for physician assistants or surgeon's assistants accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or the Commission for Accreditation of Allied Health Education Programs, or their successors, or a copy of a diploma from such a program.

~~3.~~ ~~Written communication from the school verifying that the applicant has completed the training program~~

~~8.~~ Verification of Passing Scores on NCCAOM Examination

The NCCAOM examination is presently the only acupuncture examination approved and accepted by the board. The applicant shall arrange for direct verification of examination results from NCCAOM; and

~~9.~~ Verification of Licensure in Other Jurisdictions

The applicant shall obtain verification of licensure status from all jurisdictions in which the applicant holds or at any time held a health care-related license.

~~5.~~ ~~Examination. The NCCAOM examination is presently the only acupuncture examination approved and accepted by the board.~~ ~~[deleted]~~

~~6.~~ ~~Acupuncture Internship. Licensees responsible for supervising interns must:~~

~~A.~~ ~~Hold a valid Maine acupuncturist license that is in good standing;~~

~~B.~~ ~~Submit a completed Intern Profile Form to the board within 30 days of commencing supervision of an intern. Intern Profile Forms may be obtained from the board's office. The intern may not begin the program until approved by the board;~~

~~C.~~ ~~Be responsible for all actions performed by the intern. The board may, for cause, impose disciplinary actions against the supervising acupuncturist as a result of his or her failure to properly supervise an intern and guard against public risk or harm; and~~

~~D.~~ ~~Be responsible for clearly identifying an intern as an acupuncturist intern in a clinical setting.~~

1. Generally

An acupuncture student who meets the qualifications set forth in 32 MRSA §12511(1) may practice acupuncture under the supervision of a Maine-licensed acupuncturist in a board-approved internship program.

2. Good Standing of Supervisor

A supervising acupuncturist must at all times during an internship maintain an active, unrestricted license and be in full compliance with any disciplinary action imposed by the board.

3. Legal and Ethical Responsibility of Supervisor

A supervising acupuncturist is legally and ethically responsible for the professional activities of an intern under his or her supervision.

STATUTORY AUTHORITY: 32 MRSA §§12503, 12512

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 4: LICENSURE REQUIREMENT FOR NATUROPATHIC DOCTORS

Summary: This chapter states the requirements for issuance of a license to practice naturopathic medicine, including application, educational experience and references.

1-A. Qualification for Licensure

An applicant qualifies for licensure as a naturopathic doctor by meeting the eligibility requirements set forth in 32 MRSA §12525(1).

1. Application for Licensure~~and qualification for licensure.~~

~~A. An individual, before engaging in the practice of naturopathic medicine in this State, shall complete and file with the board an application for licensure to practice on a form prescribed by the board. An applicant applies for licensure by submitting the application prescribed by the board, the documentation required by subsection 3 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled "Establishment of License Fees," and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents and the required fees.~~

~~B. Applications must be filed with the board at least 14 days before the next published board meeting. Applications will not be considered for approval until complete. Incomplete applications will be returned for completion.~~

~~C2-A.~~ The complete application packet will include the following: Documentation Required

1-A. Generally

The applicant shall submit the documentation described in this Section to establish eligibility for licensure under 32 MRSA §12525(1). All documents must be submitted in the English language.

1. Verification of Graduation From Approved Naturopathic Medical College

~~An official transcript which contains the school seal from an approved naturopathic medical college or other written communication at the discretion of the board. The applicant shall submit an official transcript showing graduation from a naturopathic medical college accredited by CNME, or a copy of a diploma from such a program.~~

2. Verification of Passing Scores on NPLEX

~~Evidence from NPLEX or its successor of having passed a competency-based examination as described in section 4 of this chapter and as approved by the board, covering the appropriate naturopathic subjects, including basic and clinical sciences, homeopathy and minor surgery. The NPLEX is presently the only examination for naturopathic doctors approved by the board. The applicant must pass the biomedical science section using the standard grading model. The compensatory grading model is acceptable for the core clinical science section. The applicant shall arrange for direct verification from NABNE of passing scores on the biomedical science and core clinical science sections of the NPLEX.~~

- ~~a) If an applicant fails to pass either the basic science or clinical section of the examination, the applicant shall be permitted to retake each subject a total of two times within a period of one year without losing credits for subjects passed. If after a total of three attempts the applicant has not passed the entire basic science or clinical section of the examination, the applicant must wait one year and retake the entire examination.~~
- ~~b) The applicant must pass all basic science examinations using the standard grading model. The compensatory grading model is acceptable for the clinical science examination.~~
- 3. ~~Two signed original reference letters addressing good ethical and professional conduct from two of any of the following licensed doctors: naturopathic doctor, osteopathic doctor or medical doctor. [deleted]~~
- 4. Verification of Licensure in Other Jurisdictions

~~The applicant must submit verification of his or hers shall obtain verification of licensure status on forms supplied by the board if the applicant is or has been licensed in another State from all jurisdictions in which the applicant holds or at any time held a health care-related license.~~

- ~~5. Application and license fees are nonrefundable.~~
- ~~D. Application forms or supporting documents that have been altered, defaced or compromised will not be accepted. The licensing process must be completed within eighteen (18) months from the date the application is received by the board. If the licensing process exceeds eighteen (18) months, the application and all supporting documentation become invalid, and the applicant must restart the licensure process and submit a new application and supporting documents.~~
- 2. ~~Application and qualification for conditional licensure. [deleted]~~
- ~~An individual who has graduated from an approved naturopathic medical college and has been practicing naturopathic medicine in this State as of January 1, 1994, may apply to the board for a conditional license to practice. Conditional licenses shall expire three years from July 4, 1996, the effective date of 32 MRSA section 12525 (2), and are not renewable. In order to continue practicing, the applicant must meet all requirements for full licensure.~~

- ~~A. With the exception of chapter 4 section 1 (C) (2), an applicant for conditional licensure must comply with all of the requirements listed in chapter 3 section 1.~~
- ~~B. Evidence must be submitted that the applicant practiced naturopathic medicine as of January 1, 1994 in Maine. A copy of state tax forms shall be considered suitable evidence.~~

3. ~~Application and qualification for naturopathic~~Naturopathic acupuncture Acupuncture specialty
~~Specialty certification~~Certification

1-A. Qualification for Specialty Certification

A naturopathic doctor qualifies for naturopathic acupuncture specialty certification by meeting the eligibility requirements set forth in 32 MRSA §12525(3).

1. Application for Specialty Certification

A licensed naturopathic doctor ~~may apply~~applies for specialty certification ~~as follows:~~by submitting the application form prescribed by the board, the documentation required by subsection 2 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled "Establishment of License Fees," and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents and the required fees.

2. Documentation Required

- A. ~~Complete and submit an application as prescribed by the board together with the appropriate certification fee.~~Generally. The applicant shall submit the documentation described in this Section to establish eligibility for specialty certification pursuant to 32 MRSA §12525(3). All documents must be submitted in the English language.
- B. ~~Verify 1,000 hours~~Verification of 1,000 hours of classroom ~~instruction~~training in acupuncture. As verification of classroom ~~instruction~~training, the board will accept an official transcript from ~~the an~~ acupuncture school accredited by ACAOM or approved by the board ~~verifying that verifies~~ the number of hours of classroom instruction. ~~The transcript must show the number of hours of classroom instruction.~~
- C. ~~NCCAOM certification. As verification of NCCAOM certification, the board will accept either of the following:~~
1. ~~Official copy of NCCAOM certificate from the applicant, or~~
2. ~~Direct written verification from NCCAOM.~~[deleted]

D. ~~Verify~~ Verification of 300 hours of supervised clinical experience in acupuncture. As verification of clinical experience, the board will accept ~~any of the following:~~ an official transcript from an acupuncture school accredited by ACAOM or approved by the board that verifies the number of hours of supervised clinical experience, or other communication at the discretion of the board.

~~1. An official transcript from the acupuncture school verifying the number of hours of supervised clinical experience; or~~

~~2. An official transcript from the acupuncture school or other communication at the discretion of the board. The transcript must show the number of hours of supervised clinical experience; or~~

~~3. Submit a letter from a master or licensed acupuncturist verifying that the applicant has completed the following under supervision of an appropriate qualified or licensed acupuncturist:~~

~~a) Formulation of an acupuncture diagnosis and an acupuncture course or treatment; and~~

~~b) Execution and follow up of said course of treatment.~~

~~The Master or licensed acupuncturist must show proof of NCCAOM certification or licensure in another State or qualifying credentials as approved by the board.~~

E. Verification of Passing Scores on NCCAOM Examination. The NCCAOM examination is presently the only acupuncture examination approved and accepted by the board. The applicant shall arrange for direct verification of examination results from NCCAOM.

3. Certification Term

Naturopathic acupuncture specialty certification issued pursuant to this Section is coterminous with the underlying license as a naturopathic doctor.

~~4. Licensure examination.~~

~~— The licensure examination shall consist of the following basic and clinical science components which shall include, but not be limited to: anatomy; biochemistry; microbiology; pathology; physiology; emergency medicine and public health; lab diagnosis and diagnostic imaging; botanical medicines and pharmacology; clinical nutrition; physical and clinical diagnosis; physical medicine; psychology and lifestyle counseling; homeopathy and minor surgery.~~

~~5. Licensure Renewal.~~

~~— Licensees must submit complete applications for renewal of license prior to the date of expiration of licensure. A license expires on the stated date of expiration but may be renewed by the payment of a \$10 late renewal fee in addition to the license fee for a period of 90 days after the~~

~~date of expiration. The ninety-day extended renewal period should not in any way be construed to permit the practice of acupuncture or naturopathic medicine after the date of expiration.~~

STATUTORY AUTHORITY: 32 MRSA §§12503, 12525

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 5 STANDARDS FOR CONTINUING PROFESSIONAL EDUCATION FOR
ACUPUNCTURISTS AND NATUROPATHIC DOCTORS

Summary: This chapter states-sets forth the requirements for continuing education as required for licensure-license renewal.

1. General provisions: Generally

1. Certification

All licensees shall certify at time of license renewal to compliance with the continuing education requirement set forth in this chapter. The licensee's certification is subject to audit pursuant to Chapter 13 of the rules of the Office of Professional and Occupational Regulation, entitled "Uniform Rule for the Substantiation of Continuing Education Requirements." This continuing education requirement does not apply to the first renewal of an initial license.

2. Timely Completion

All continuing education activities must be completed during the license term for which credit is claimed. Continuing education hours earned in excess of the required hours for a license term may not be carried forward to a subsequent license term.

3. Application for Deferment

A licensee may apply for a continuing education deferment on the ground of undue hardship. The licensee shall document the hardship upon request of the board.

4. Limitations

Notwithstanding anything to the contrary in this chapter, continuing education credit will not be given for:

A. Continuing education activities which in substantial part promote a specific company, individual or product; or

B. Continuing education activities which primarily focus on practice economics;

~~A. Approximately 45 days prior to the licensure expiration date, the board will send to all licensees a board prescribed form for reporting continuing education requirements. The license renewal application will be sent under separate cover. The licensee must complete fully the continuing education report form and return it to the board together with the license renewal application.~~

- ~~_____ B. It is the responsibility of the licensee to maintain appropriate records of evidence of compliance with the continuing professional education requirements. The board may at its discretion require any licensee to submit proof of completion of continuing education requirements as reported by the licensee. Failure to provide evidence of continuing education requirements may be a ground for nonrenewal of licensure.~~
- ~~_____ C. Continuing education hours in excess of the required hours earned in any renewal period may not be carried forward to a subsequent renewal period.~~
- ~~_____ D. The board, at its discretion, may grant an extension of time for completion of all or part of the continuing education requirements to a licensee who, for extenuating circumstances, has been unable to meet the requirements. The board may require verification of the extenuating circumstance as is necessary to prove its existence.~~

2. ~~Acupuncture standards for continuing education.~~ Acupuncturist Standards For Continuing Education

A1. General Requirement

~~Applicants for license renewal must obtain 30 continuing education units over the two year biennium. Continuing education credit will be given for programs which are directly related to the knowledge and clinical practice of Acupuncture and Oriental Medicine. For the license year beginning on November 1, 2014, an acupuncturist (other than an acupuncturist initially licensed during the license year beginning on November 1, 2013) shall certify at time of license renewal to completion of 30 hours of continuing education during the two preceding license years as set forth in this chapter. For license years beginning on or after November 1, 2015, an acupuncturist shall certify at time of license renewal to completion of 15 hours of continuing education during the preceding license year as set forth in this chapter. To be eligible for credit, a continuing education activity must—~~

- ~~A. Directly relate to the knowledge or clinical practice of acupuncture or Oriental medicine; and~~
- ~~B. Be either sponsored or presented by a pre-approved organization pursuant to subsection 2 below, or be specifically approved by the board upon request as set forth in subsection 3 below.~~

~~B. Courses sponsored or approved for continuing education credit by the following organizations are automatically approved by the board:~~

- ~~_____ 1. Schools or programs accredited by, or candidates of, the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM);~~
- ~~_____ 2. The National Association of Acupuncture and Oriental Medicine (National Alliance);~~
- ~~_____ 3. The American Association of Acupuncture and Oriental Medicine (AAAOM);~~

- ~~4. The National Acupuncture Detoxification Association (NADA);~~
 - ~~5. Other State Acupuncture Licensing Boards;~~
 - ~~6. The American Red Cross or the American Heart Association; or~~
 - ~~7. Any Maine professional acupuncturist association(s) recognized by the board.~~
2. Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers

Continuing education activities offered by sponsors and providers whose past offerings, in the judgment of the board, have consistently met the approval criterion of Section 2(1)(A) above are eligible for credit without need of request. The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license year and may update the list during the course of the license year as necessary. The board may monitor continuing education activities offered by pre-approved sponsors and providers for compliance with the approval criterion of Section 2(1)(A) above.

3. Specific Approval of Continuing Education Activities

~~C. The following criteria for board approval of acupuncture continuing education credits shall apply:~~

- ~~Requests for program approval by the board must be submitted to the board at least 45 days in advance of the program presentation date and must include the following information:~~

A licensee may request the board to approve a continuing education activity that is not automatically approved pursuant to subsection 2 above. The request must include the information described in paragraphs A–F below. The board will review the request for compliance with Section 1(4) and Section 2(1)(A) above

- 1A. Subject Name of the program, name of the sponsor, method of presentation and outline of the subject matter to be covered;
- 2B. Name, title, and/or professional degree(s), credentials and/or qualifications of the presenter;
- 3C. Date, and location and daily schedule of the program, including all start times, end times and scheduled breaks; and
- 4D. Exact times (beginning and end) of each program credit is applied for; [deleted]
- 5E. Name of sponsor [deleted]; and
- 6F. If available, a copy of a brochure or any written material publicizing the program.

- ~~———— D. ——— Programs focused primarily on practice economics with the exception of those dealing with medical workers' compensation or public health, are not eligible for continuing education credit or approval.~~
- ~~———— E. ——— One continuing education unit equals one contact hour or 50 minutes.~~
- ~~———— F. ——— Continuing education hours are due upon renewal on even-numbered years; an Acupuncturist who obtains his or her initial license in an odd-numbered year is exempt from the even-year continuing education cycle immediately following his or her initial licensure.~~
- ~~———— G. ——— Credit hours are not retroactive nor cumulative. All credit hours must be earned within the biennium for which they are claimed.~~
- ~~———— H. ——— Credit hours must include a minimum of 15 hours of acupuncture and oriental medicine subject matter and a maximum of 15 hours of related topics.~~

3. Naturopathic ~~doctor standards for continuing education.~~ Doctor Standards For Continuing Education

A1. General Requirement

~~Licensed naturopathic doctors shall complete 37 hours of continuing education annually. Naturopathic doctors who hold a specialty certification in naturopathic acupuncture must complete an additional 15 hours of continuing education annually, specific to that specialty. The 37 hours shall consist of the following:~~ A naturopathic doctor shall certify at time of license renewal to completion of 25 hours of continuing education during the preceding license year as set forth in this chapter. At least 7 of the 25 hours must be in pharmacology. To be eligible for credit, a continuing education activity must—

- A. Directly relate to the knowledge or clinical practice of naturopathic medicine; and
- B. Be either sponsored or presented by a pre-approved organization listed in subsection 3 below, or be specifically approved by the board upon request as set forth in subsection 4 below.
- ~~1. ——— At least 7 hours shall be in pharmacology;~~
- ~~———— 2. ——— No more than 15 hours may be in naturopathic and/or medical journals or audio- or videotaped presentations, slides, programmed instruction or computer assisted instruction and/or preceptorships;~~
- ~~———— 3. ——— No more than 10 hours may be in any single topic; and~~
- 2. Additional Continuing Education for Holders of the Naturopathic Acupuncture Specialty Certification
- 4. ——— A licensee who holds a naturopathic acupuncture specialty certification shall complete an additional 15 hours of continuing education specific to that specialty during the preceding license term. The additional 15 hours of continuing education required for

~~specialty certification in acupuncture shall~~must meet the ~~standards of continuing education for acupuncturists as described in chapter 5, section 2 (B) of these rules~~approval criteria for acupuncture continuing education activities set forth in Section 1(4) and Section 2(1)(A) above.

~~For the purpose of implementation, continuing education for naturopathic doctors and naturopathic doctors who hold a specialty certification shall become effective on the effective date of the rule. The first reporting period shall be August 31 of the year following licensure.~~

~~B. Approved continuing education programs include:~~

- ~~1. Programs sponsored by the American Association of Naturopathic Physicians (AANP) or accredited naturopathic, osteopathic, or allopathic schools; or~~
- ~~2. Programs that meet the licensure requirements for medical doctors, doctors of osteopathic medicine, and physician's assistants.~~

~~C. Programs presented for the purpose of promoting a specific company, individual, or product, and programs the primary focus of which is practice economics except those specifically dealing with medical workers compensation or public health, are not eligible for continuing education credits.~~

3. Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers

Continuing education activities offered by sponsors and providers whose past offerings, in the judgment of the board, have consistently met the approval criterion of Section 3(1)(A) above are eligible for credit without need of request. The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license term and may update the list during the course of the license term as necessary. The board may monitor continuing education activities offered by pre-approved sponsors and providers for compliance with the approval criterion of Section 3(1)(A) above.

4. Specific Approval of Continuing Education Activities

~~D. All programs not covered under section 3 (B) for which credit is requested must be presented to the board for prior approval at least 45 days in advance and must be accompanied by a copy of the program brochure or a letter from the sponsor stating the following: A licensee may request the board to approve a continuing education activity that is not automatically approved pursuant to subsection 3 above. The request must include the information described in paragraphs A–D below. The board will review the request for compliance with Section 1(4) and (5) and Section 3(1)(A) above.~~

1A. General subject~~Name of the program, name of the sponsor, method of presentation and outline of the subject~~ matter to be covered;

2B. Name, title, and/or professional degree(s), credentials and/or qualifications of the presenter;

3C. Date, and location and daily schedule of the program, including all start times, end times and scheduled breaks; and

~~4D. Exact times (beginning and end) of each program for which credit is applied; and If available, a copy of a brochure or any written material publicizing the program.~~

~~5. Name of sponsor.~~

~~E. Application for preceptorship credit must be accompanied by date and hours of preceptorship and the name and title of the preceptor.~~

STATUTORY AUTHORITY: 32 MRSA §§12503, 12516(1), 12526(3)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 7: ENFORCEMENT AND DISCIPLINARY PROCEDURES; GROUNDS FOR DISCIPLINE

Summary: This chapter ~~outlines the enforcement and disciplinary procedures used by the Board of Complementary Health Care Providers. Included are specific grounds for discipline as well as clarification of the terms used in this chapter~~references the statutory grounds for discipline against licensees and includes examples of prohibited conduct that may result in discipline.

1. Disciplinary Procedure

- ~~— The board will follow the procedure for initiating and processing complaints set forth in the Standard Complaint Procedure of the Office of Licensing and Registration, Department of Professional and Financial Regulation. [deleted]~~
- ~~— A. Written Complaints. All complaints must be filed in writing to the Office of Licensing and Registration.~~
- ~~— B. Other Investigations. An investigation may be conducted based upon information other than a written complaint if such information provides prima facie evidence of a violation of 32 MRSA section 12501, et seq. or if the information raises a substantial question regarding the qualifications of any applicant or licensee.~~
- ~~— C. Member Request for Investigation. A member of the board may file a complaint or request an investigation, but such complaint or request shall serve to disqualify the member from participating in the disposition of the matter. That member shall be prohibited from discussing the issue with other members, except as a witness or party, until after final agency action and the time for appeal has lapsed or appeal rights have been exhausted.~~
- ~~— D. Prohibited Communications. The members shall not discuss, except with adequate notice and opportunity for all parties to participate, any specific case under investigation, or any case which may reasonably be expected to be the subject of investigation, until after final agency action and the time for filing an appeal has lapsed or appeal remedies have been exhausted, except in accordance with the complaint procedures set forth by the Department of Professional and Financial Regulation's Office of Licensing and Registration.~~
- ~~— This rule shall not be construed to limit the members at board meetings from discussion among themselves or with the attorney assigned to the board. These rules shall be construed to limit communications regarding closed matters, investigations in general, inquiries regarding the status of a specific case, or other matters not relating to issues of fact of law concerning a specific case.~~

2. Grounds for Discipline

- ~~— The board may take any disciplinary action authorized by statute based upon any of the grounds set forth in 32 MRSA section 12503 (6)(A) through (F).~~
- ~~— A. THE PRACTICE OF FRAUD OR DECEIT in obtaining a license under this chapter or in connection with services rendered as an Acupuncturist, Acupuncture Intern, or Naturopathic Doctor.~~
- ~~— B. ADDICTION as confirmed by medical findings, TO THE USE OF ALCOHOL OR OTHER DRUGS, which has resulted in the Acupuncturist, Acupuncture Intern, or Naturopathic Doctor being unable to perform his or her duties or performing those duties in a manner which would endanger the health or safety of the clients or patients to be served.~~
- ~~— C. A medical finding of MENTAL INCOMPETENCY.~~
- ~~— D. AIDING OR ABETTING A PERSON NOT DULY LICENSED in representing him/herself as an Acupuncturist, Acupuncture Intern, or Naturopathic Doctor.~~
- ~~— E. ANY GROSS NEGLIGENCE, INCOMPETENCY OR MISCONDUCT in the practice of acupuncture or naturopathic medicine.~~
- ~~— F. Subject to the limitations of 5 MRSA chapter 341, CONVICTION OF A CLASS A, B OR C CRIME or of a crime which, if committed in this State, would be punishable by one year or more of imprisonment.~~
- ~~— G. VIOLATION OF ANY PROVISION OF THIS CHAPTER or any rules of the board.~~

Grounds for discipline are set forth in 10 MRSA §8003(5-A)(A) and 32 MRSA §12503-A.

3. ~~Clarification of Terms~~Examples of Grounds for Discipline

The following grounds for discipline in 10 MRSA §8003(5-A)(A) include but are not limited to the conduct described below.

~~A1. FRAUD OR DECEIT~~Fraud, Deceit or Misrepresentation (10 MRSA §8003(5-A)(A)(1))

~~1A.~~ The practice of fraud, ~~or~~ deceit or misrepresentation in obtaining a license includes, but is not limited to:

- ~~a(1).~~ falsification ~~Falsification~~ or misrepresentation of education or experience of an applicant;
- ~~b(2).~~ falsification ~~Falsification~~ or misrepresentation of a recommendation from a consultant or peer;
- ~~c(3).~~ cheating ~~Cheating~~ on licensure ~~a license~~ examination;

~~d(4): intentionally withholding~~ Withholding or misrepresenting any information requested on the application, including any information regarding criminal or disciplinary action taken by any state against an applicant; or

~~e(5): impersonating~~ Impersonating another applicant.

2B. The practice of fraud, ~~or~~ deceit or misrepresentation in connection with services rendered as an acupuncturist or naturopathic doctor includes, but is not limited to:

~~a(1): intentionally practicing or attempting to practice, or aiding another to practice, beyond the scope of the license held~~ [deleted];

~~b(2): intentionally misrepresenting~~ Misrepresenting the type or status of license held, the professional designation for the license held, or qualifications to practice;

~~e(3): committing~~ Committing or aiding another to commit fraud, deceit or corruption in billing, payment or insurance reimbursement procedures;

~~d(4): intentionally engaging~~ Engaging in false, misleading or deceptive advertising; ~~or~~

(5) Billing patients or third-party providers for services not rendered; or

~~e(6): impersonating~~ Impersonating another licensee.

B2. AIDING OR ABETTING UNLICENSED PRACTICE Aiding or Abetting Unlicensed Practice (10 MRSA §8003(5-A)(A)(8))

Aiding or abetting a person not duly licensed to represent ~~him/herself~~ him- or herself as an acupuncturist or naturopathic doctor includes, but is not limited to:

1A. ~~assisting~~ Assisting another to practice beyond the scope of ~~his/her~~ the license held, or without a license;

2B. ~~knowingly supervising~~ Supervising or providing consultation to an unlicensed person representing ~~him/herself~~ him- or herself as licensed, or to a licensed person practicing beyond the scope or ~~his or her~~ the license held; or

3C. ~~knowingly making~~ Making referrals-a referral to an unlicensed person representing ~~him/herself~~ him- or herself as licensed, or to a licensed person practicing beyond the scope of ~~his-the~~ the license held.

C3. GROSS NEGLIGENCE, INCOMPETENCY OR MISCONDUCT Gross Negligence, Incompetence or Misconduct (10 MRSA §8003(5-A)(A)(2))

Gross negligence, ~~incompetency~~ incompetence or misconduct in the practice of acupuncture or naturopathic medicine includes, but is not limited to:

~~1A.~~ ~~intentionally~~ Intentionally or recklessly causing physical or emotional harm to a client or patient;

~~A-1.~~ Failing to practice acupuncture in accordance with the Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, 6th Edition (National Acupuncture Foundation November 1, 2009).

The board incorporates the above-mentioned Clean Needle Technique Manual into this chapter by reference. Copies of the Clean Needle Technique Manual may be obtained through retail booksellers, including the following:

<u>Amazon</u>	<u>Atlas Books</u>
<u>www.amazon.com</u>	<u>www.atlasbooks.com</u>
	<u>30 Amberwood Pkwy.</u>
	<u>Ashland, OH 44805</u>
	<u>(800) 247-6553;</u>

~~2B.~~ ~~failing~~ Failing to maintain the confidentiality of client or patient information, except as otherwise required by law;

~~3C.~~ ~~practicing~~ Practicing acupuncture or naturopathic medicine when the licensee's physical or mental ability to practice is impaired by alcohol or drugs or when the health or safety of a client or patient may reasonably be deemed to be at risk due to the licensee's use of alcohol or drugs;

~~4D.~~ ~~practicing~~ Practicing acupuncture or naturopathic medicine when the licensee's physical or mental ability to practice is impaired by physical, psychological or mental impediment;

~~5E.~~ ~~engaging in conduct which violates the Code of Ethics as described in chapter 8 of the board's rules~~ [deleted];

~~6F.~~ ~~negligently failing~~ Failing to provide adequate supervision of an intern by an acupuncturist with supervisory responsibility over that intern;

~~7G.~~ ~~practicing or attempting to practice beyond the scope of license held~~ [deleted];

~~8H.~~ ~~advertising in a manner which is false, misleading or deceptive~~ [deleted];

~~9I.~~ ~~paying~~ Paying, accepting or soliciting any payment or consideration for the referral of a client or patient;

~~10J.~~ ~~falsifying~~ Falsifying, or inaccurately recording or omitting information from client or patient records;

K. Billing patients or third-party providers inaccurately, excessively or unfairly;

- ~~14L.~~ ~~exercising~~Exercising undue influence on the client or patient, including the promotion for sale of goods, services or drugs, so as to exploit the client or patient for the financial gain of the acupuncturist or naturopathic doctor;
- ~~M.~~ Failing to maintain professional boundaries in relationships with patients or engaging in a dual relationship that impairs treatment, exploits practitioner/patient trust, or fosters an undue dependency of the patient on the practitioner.
- ~~12N.~~ ~~failure~~Failing to report ~~incidences~~an incident of child or adult abuse or neglect as mandated by state law;
- ~~13O.~~ ~~engaging~~Engaging in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice of acupuncture or naturopathic medicine;
- ~~14P.~~ ~~subject to the limitations of 5 MRSA chapter 341, conviction of a crime which involves dishonesty or false statement or which relates directly to the practice of acupuncture or naturopathic medicine~~[deleted]; ~~or~~
- ~~15Q.~~ ~~engaging~~Engaging in sexual misconduct with a patient. Sexual misconduct in the practice of acupuncture or naturopathic medicine is behavior that exploits the acupuncturist or naturopathic doctor-patient relationship in a sexual way. This behavior is nondiagnostic and/or nontherapeutic, may be verbal or physical, and may include expressions or gestures that have a sexual connotation or that a reasonable person would construe as such. ~~Sexual misconduct is considered incompetence and misconduct as defined in 32 MRSA section 12503 (6).~~

There are two levels of sexual misconduct: sexual violation and sexual impropriety. Behavior listed in both levels may constitute grounds for disciplinary action.

~~a(1).~~ “Sexual violation” is any conduct by an acupuncturist or naturopathic doctor with a patient that is sexual or may be reasonably interpreted as sexual, even when initiated by or consented to by a patient, including but not limited to:

- ~~1.~~(a) Sexual intercourse, genital to genital contact;
- ~~2.~~(b) Oral to genital contact;
- ~~3.~~(c) Oral to anal contact or genital to anal contact;
- ~~4.~~(d) Kissing in a sexual manner (e.g. french kissing);
- ~~5.~~(e) Any touching of a body part for any purpose other than appropriate examination, treatment, or comfort, or where the patient has refused or has withdrawn consent;
- ~~6.~~(f) Encouraging the patient to masturbate in the presence of the acupuncturist or naturopathic doctor or masturbation by the

acupuncturist or naturopathic doctor while the patient is present;
and

7.(g) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.

b(2)- “Sexual impropriety” is behavior, gestures, or expressions by the acupuncturist or naturopathic doctor that are seductive, sexually suggestive, or sexually demeaning to a patient, including but not limited to the following. All circumstances will be considered in determining whether sexual impropriety has occurred:

1.(a) Kissing;

2.(b) Disrobing, draping practices or touching of the patient’s clothing that reflect a lack of respect for the patient’s privacy; deliberately watching a patient dress or undress, instead of providing privacy for disrobing;

3.(c) Subjecting a patient to an examination in the presence of another when the acupuncturist or naturopathic doctor has not obtained the verbal or written consent of the patient or when consent has been withdrawn;

4.(d) Examination or touching of genitals without the use of gloves;

5.(e) Inappropriate comments about or to the patient, including but not limited to making sexual comments about a patient’s body or underclothing; making sexualized or sexually demeaning comments to a patient, criticizing the patient’s sexual orientation (homosexual, heterosexual, or bisexual); making comments about potential sexual performance during an examination or consultation (except when the examination or consultation is pertinent to the issue of sexual function or dysfunction); requesting details of sexual history or sexual likes or dislikes when not clinically indicated;

6.(f) Using the acupuncturist or naturopathic doctor-patient relationship to solicit a date or initiate romantic relationship;

7.(g) Initiation by the acupuncturist or naturopathic doctor of conversation regarding the sexual problems, preferences, or fantasies of the acupuncturist or naturopathic doctor; and

8.(h) Examining the patient without verbal or written consent-;

~~All circumstances will be considered in determining whether sexual impropriety has occurred. If the board finds that a licensee has engaged in sexual misconduct as defined in chapter 7, section C of these rules, the licensee shall be disciplined in accordance with the board’s laws and rules.~~

-
- R. Engaging in a sexual relationship with a former patient within the 6 month period following the end of the professional relationship; or
- S. Engaging in a sexual relationship with a former patient after the 6 month period following the end of the professional relationship that exploits the trust established during the professional relationship.
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STATUTORY AUTHORITY: 32 MRSA §12503

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 8: CODE OF ETHICS

~~SUMMARY: This chapter defines the code of ethics in the practice of acupuncture and naturopathic medicine in the State of Maine.~~
Summary: This chapter sets forth a code of ethics applicable to licensed acupuncturists and naturopathic doctors.

~~The following code of ethics is adopted by the board.~~

1. Generally

Licensed acupuncturists and naturopathic doctors shall abide by the code of ethics set forth in this chapter.

2. Code of Ethics

~~Licensed acupuncturists and naturopathic doctors~~Licensees shall:

- ~~1. respect the rights, dignity and person of each patient;~~
- ~~2. render to each patient quality care and make timely referrals to other health care professionals as may be appropriate according to professional standards;~~
- ~~3. clearly and fully explain alternative treatments available when appropriate, including potential referral to other health care professionals;~~
- ~~4. avoid treating patients when one's judgment or competency is impaired by chemical dependency, or physical or mental incapacity;~~
- ~~5. report to the board a licensed acupuncturist or naturopathic doctor whose judgment or competency while treating patients is impaired by chemical dependency or physical or mental incapacity;~~
- ~~6. conduct a practice that is nondiscriminatory;~~
- ~~7. keep accurate records of history and treatment, and respect the confidentiality of the records and any other personal information imparted by the patient;~~
- ~~8. keep the patient informed by explaining treatment and expectations of results to avoid making promises or creating inappropriate expectations;~~
- ~~9. protect the welfare and dignity of patients participating in research and obtain informed consent for research protocols;~~
- ~~10. contribute toward raising the standards of the profession;~~

- ~~11. use appropriate professional or personal channels to correct behavior detrimental to the patient or the public;~~
 - ~~12. maintain personal behavior consistent with the best interests of the patient and reflecting well on the profession;~~
 - ~~13. provide accurate information regarding education, training and experience, professional affiliations and certification;~~
 - ~~14. make public statements regarding the effectiveness of acupuncture or naturopathic medicine that are within the generally accepted experience of the profession as a whole or within the individual practitioner's experience;~~
 - ~~15. respect the integrity of other forms of health care, make efforts to build bridges and develop collaborative relationships to achieve the best possible care for individual patients;~~
 - ~~16. abstain from sexual acts or contacts with a patient, not solicit sexual acts or contacts from a patient, not commit an act of sexual abuse or sexual misconduct with a patient, or commit an act punishable as a sex offense; and~~
 - ~~17. make no material false statements on any board-prescribed reporting form or fail to provide adequate documentation verifying completion of the continuing education requirements, when requested at the board's discretion.~~
1. Respect the rights and dignity of each person treated;
 2. Accept and treat those seeking services in a nondiscriminatory manner;
 3. Keep the patient informed by explaining treatments and outcomes;
 4. Render the highest quality of care and make timely referrals to other health care professionals as may be appropriate;
 5. Clearly and fully explain alternative treatments available when appropriate, including potential referral to other health care professionals;
 6. Refrain from making public statements on the efficacy of Oriental or naturopathic medicine that are not supported by the generally accepted experience of the professions;
 7. Respect the integrity of other forms of health care and other medical traditions and seek to develop collaborative relationships to achieve the highest quality of care for individual patients;
 8. Report to the board a licensed acupuncturist or naturopathic doctor whose judgment or competency while treating patients is impaired by chemical dependency or physical or mental incapacity;
 9. A licensee who offers medicines, medical devices, supplements or pre-made herbal formulations to patients shall offer alternative sources for obtaining such items as long as those alternative sources do not compromise safety or clinical effectiveness;

10. Refrain from recommending medicines or treatments of a secret nature, and adequately disclose the contents of medicines or the nature and description of treatments recommended to a patient;
 11. Provide or recommend only those services that are medically necessary or deemed to be beneficial to an individual patient;
 12. Transfer a patient's records to another health care provider at the request of the patient, in accordance with appropriate and applicable legal guidelines, in a reasonable and timely fashion, and at reasonable cost;
 13. Disclose to a patient any financial interests that may conflict with the provision of appropriate care by the licensee;
 14. Disclose any compensation from or ownership interest in a company that sells specific products as to which the licensee has made written or oral public statements; and
 15. Not accept gifts from any individual or entity that may be deemed to influence the licensee's professional clinical judgment.
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STATUTORY AUTHORITY: 32 MRSA §12503

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 9: FEES

Summary: This chapter sets forth the fees to be charged for all applications and licenses issued by the board under 32 MRSA chapter 113-B.

~~1. Applications. All application fees are nonrefundable.~~

~~A. Acupuncturist \$200.00~~

~~B. Naturopathic Doctor \$200.00~~

~~C. Naturopathic Acupuncture Specialty Certification \$200.00~~

~~D. Naturopathic Doctor Conditional Licensure \$200.00~~

~~2. Licenses.~~

~~A. Acupuncturist for Original and Renewal License \$675.00~~

~~B. Naturopathic Doctor for Original and Renewal License \$675.00~~

~~C. Naturopathic Acupuncture Specialty Certification for \$ 50.00~~
~~Original and Renewal License[deleted]~~

STATUTORY AUTHORITY: 32 MRSA §§12514(2) and 12526(1)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 1: DEFINITIONS

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Summary: This chapter defines certain professional terms used throughout the board's rules.

1. [deleted]
- 1-A. **ACAOM.** “ACAOM” means the Accreditation Commission for Acupuncture and Oriental Medicine, or its successor.
2. [deleted]
3. [deleted]
4. [deleted]
5. [deleted]
6. **Baccalaureate degree.** “Baccalaureate degree” means the traditional degree given by an accredited institution of higher learning after the equivalent of four years of undergraduate level work, e.g., Bachelor of Arts, Bachelor of Science.
7. [deleted]
8. **Board-approved acupuncture program.** For purposes of 32 MRSA §12511(1), “board-approved internship program” means a structured clinical learning experience in the basic skills and knowledge necessary for the independent practice of acupuncture that is either part of an educational program approved by ACAOM or has been approved by the board.
9. [deleted]
- 9-A. **CNME.** “CNME” means the Council on Naturopathic Medical Education or its successor.
10. [deleted]
11. [deleted]
- 11-A. **NABNE.** “NABNE” means the North American Board of Naturopathic Examiners or its successor.
12. [deleted]
13. [deleted]

14. [deleted]
 15. [deleted]
 16. [deleted]
 17. [deleted]
 18. [deleted]
 19. [deleted]
 20. **NCCAOM.** “NCCAOM” means the National Certification Commission for Acupuncture and Oriental Medicine or its successor.
 - 20-A. **Non-controlled legend drug.** For purposes of 32 MRSA §12522(4)(B), “non-controlled legend drug” means a drug—
 - (1) That lawfully bears, at a minimum, the symbol “Rx Only” in accordance with 21 USC §353(b)(4)(A) to indicate that the drug may only be dispensed upon prescription of a licensed practitioner; and
 - (2) Is not a controlled substance as defined in 32 MRSA §12522(5).
 21. **NPLEX.** “NPLEX” means the Naturopathic Physicians Licensing Examination administered by NABNE or a successor examination.
 - 21-A. **Office.** “Office” means the Office of Professional and Occupational Regulation within the Department of Professional and Financial Regulation.
 22. [deleted]
 23. [deleted]
 24. [deleted]
 25. [deleted]
 26. [deleted]
 27. [deleted]
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STATUTORY AUTHORITY: 32 MRSA §12503

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 2: ADVISORY RULINGS

Summary: This chapter sets forth procedures for the issuance of advisory rulings by the board.

1. Advisory Rulings

1. Authority and Scope. The board, in its discretion, may issue an advisory ruling concerning the applicability of any statute or rule it administers to an existing factual situation. Each request for an advisory ruling will be reviewed to determine whether an advisory ruling is appropriate. The board may decline to issue an advisory ruling when the question is hypothetical, there is sufficient experience upon which to base a ruling, or for any other reason the board deems proper.
 2. Submission. Requests for advisory rulings must be in writing and must set forth in detail all facts pertinent to the question. The board may require additional information as necessary to complete a factual background for its ruling.
 3. Acknowledgment. A request for an advisory ruling will be acknowledged by the board within fifteen days of receipt. Within sixty days of acknowledgment, the board will state whether it will issue a ruling. Alternatively, the board may request additional information in order to determine whether an advisory ruling is appropriate.
 4. Rulings. All advisory rulings will be issued in writing and will include a statement of the facts or assumptions, or both, upon which the ruling is based. The statement will be sufficiently detailed to allow an understanding of the basis of the opinion without reference to other documents. Advisory rulings will be signed by the chair of the board and will be numbered serially in an appropriate manner.
 5. Disposition. Each completed advisory ruling will be mailed to the requesting party and a copy will be kept by the board in a file or binder established for this purpose. All advisory rulings are public documents. In addition, the board may otherwise publish or circulate any advisory ruling as it deems appropriate.
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STATUTORY AUTHORITY: 5 MRSA §§8051, 9001(4)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 3: LICENSURE REQUIREMENT FOR ACUPUNCTURISTS

Summary: This chapter sets forth the requirements for licensure as an acupuncturist.

1. [deleted]

1-A. Qualification For Licensure

An applicant qualifies for licensure as an acupuncturist by meeting the eligibility requirements set forth in 32 MRSA §12512. For purposes of 32 MRSA §12512(1)(B)(1) (requirement of baccalaureate degree), an “accredited institution of higher learning” is a college or university located in the United States that has been accredited by an accrediting agency recognized by the United States Department of Education, or a college or university located in a foreign country that has achieved a similar level of recognition from its home jurisdiction.

1-B Application For Licensure

An applicant applies for licensure by submitting the application form prescribed by the board, the documentation required by Section 4 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees,” and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents and the required fees.

2. [deleted]

3. [deleted]

4. Documentation Required

1. Generally

The applicant shall submit the documentation described in this Section as necessary to establish eligibility for licensure under 32 MRSA §12512. All documents must be submitted in the English language. An applicant who has earned a degree or has completed classroom hours or clinical experience at an educational institution outside the United States shall submit his or her transcript for evaluation to the World Education Services, Inc., Center for Educational Documentation, Inc. or other transcript analysis service that has been approved by the board, for evaluation.

2. Verification of 1,000 Hours of Classroom Instruction in Acupuncture and Related Subjects

As verification of classroom instruction, the board will accept an official transcript from an acupuncture school accredited by ACAOM or approved by the board that verifies the number of hours of classroom instruction.

3. Verification of 300 Hours of Clinical Experience in Acupuncture

As verification of clinical experience, the board will accept an official transcript from an acupuncture school accredited by ACAOM or approved by the board that verifies the number of hours of clinical experience, or other communication at the discretion of the board.

4. Verification of NCCAOM Certification

As verification of NCCAOM certification, the board will accept an official copy of the NCCAOM examination results status report verifying the certification of the applicant.

5. Verification of Baccalaureate Degree

As verification of a baccalaureate degree, the board will accept an official transcript or a copy of a diploma.

6. Verification of Licensure as a Registered Professional Nurse

As verification of licensure in the State of Maine as a registered professional nurse, the board will accept written or on line verification from the State Board of Nursing as to the licensure status of the applicant.

7. Verification of Completion of Training Program and Examination as a Physician's Assistant

As verification of completion of the training program and any competency examination required by the Maine Board of Licensure in Medicine to be qualified as a physician's assistant, the board will accept the following:

- A. Proof of passage of the Physician Assistant National Certifying Examination administered by the National Commission on Certification of Physician Assistants or its successor, and;
- B. An official transcript showing completion of an educational program for physician assistants or surgeon's assistants accredited by the American Medical Association Committee on Allied Health Education and Accreditation, or the Commission for Accreditation of Allied Health Education Programs, or their successors, or a copy of a diploma from such a program.

8. Verification of Passing Scores on NCCAOM Examination

The NCCAOM examination is presently the only acupuncture examination approved and accepted by the board. The applicant shall arrange for direct verification of examination results from NCCAOM; and

9. Verification of Licensure in Other Jurisdictions

The applicant shall obtain verification of licensure status from all jurisdictions in which the applicant holds or at any time held a health care-related license.

5. [deleted]

6. Acupuncture Internship

1. Generally

An acupuncture student who meets the qualifications set forth in 32 MRSA §12511(1) may practice acupuncture under the supervision of a Maine-licensed acupuncturist in a board-approved internship program.

2. Good Standing of Supervisor

A supervising acupuncturist must at all times during an internship maintain an active, unrestricted license and be in full compliance with any disciplinary action imposed by the board.

3. Legal and Ethical Responsibility of Supervisor

A supervising acupuncturist is legally and ethically responsible for the professional activities of an intern under his or her supervision.

STATUTORY AUTHORITY: 32 MRSA §§12503, 12512

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 4: LICENSURE REQUIREMENT FOR NATUROPATHIC DOCTORS

Summary: This chapter states the requirements for issuance of a license to practice naturopathic medicine, including application, educational experience and references.

1-A. Qualification for Licensure

An applicant qualifies for licensure as a naturopathic doctor by meeting the eligibility requirements set forth in 32 MRSA §12525(1).

1. Application for Licensure

An applicant applies for licensure by submitting the application prescribed by the board, the documentation required by subsection 3 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees,” and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents and the required fees.

2-A. Documentation Required

1-A. Generally

The applicant shall submit the documentation described in this Section to establish eligibility for licensure under 32 MRSA §12525(1). All documents must be submitted in the English language.

1. Verification of Graduation From Approved Naturopathic Medical College

The applicant shall submit an official transcript showing graduation from a naturopathic medical college accredited by CNME, or a copy of a diploma from such a program.

2. Verification of Passing Scores on NPLEX

The NPLEX is presently the only examination for naturopathic doctors approved by the board. The applicant must pass the biomedical science section using the standard grading model. The compensatory grading model is acceptable for the core clinical science section. The applicant shall arrange for direct verification from NABNE of passing scores on the biomedical science and core clinical science sections of the NPLEX.

3. [deleted]

4. Verification of Licensure in Other Jurisdictions

The applicant shall obtain verification of licensure status from all jurisdictions in which the applicant holds or at any time held a health care-related license.

2. [deleted]

3. Naturopathic Acupuncture Specialty Certification

1-A. Qualification for Specialty Certification

A naturopathic doctor qualifies for naturopathic acupuncture specialty certification by meeting the eligibility requirements set forth in 32 MRSA §12525(3).

1. Application for Specialty Certification

A licensed naturopathic doctor applies for specialty certification by submitting the application form prescribed by the board, the documentation required by subsection 2 below, the fees required by Chapter 10, Section 5(12) of the rules of the Office of Professional and Occupational Regulation, entitled “Establishment of License Fees,” and such additional information as the board may require. The applicant must complete the application process within 90 days from the date the application is received by the board. If the application process has not been completed within that time, the application and all supporting materials become invalid and the applicant must restart the application process by submitting a new application, supporting documents and the required fees.

2. Documentation Required

- A. Generally. The applicant shall submit the documentation described in this Section to establish eligibility for specialty certification pursuant to 32 MRSA §12525(3). All documents must be submitted in the English language.
- B. Verification of 1,000 hours of classroom training in acupuncture. As verification of classroom training, the board will accept an official transcript from an acupuncture school accredited by ACAOM or approved by the board that verifies the number of hours of classroom instruction.
- C. [deleted]
- D. Verification of 300 hours of supervised clinical experience in acupuncture. As verification of clinical experience, the board will accept an official transcript from an acupuncture school accredited by ACAOM or approved by the board that verifies the number of hours of supervised clinical experience, or other communication at the discretion of the board.
- E. Verification of Passing Scores on NCCAOM Examination. The NCCAOM examination is presently the only acupuncture examination approved and accepted by the board. The applicant shall arrange for direct verification of examination results from NCCAOM.

3. Certification Term

Naturopathic acupuncture specialty certification issued pursuant to this Section is coterminous with the underlying license as a naturopathic doctor.

STATUTORY AUTHORITY: 32 MRSA §§12503, 12525

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 5 STANDARDS FOR CONTINUING PROFESSIONAL EDUCATION FOR
ACUPUNCTURISTS AND NATUROPATHIC DOCTORS

Summary: This chapter sets forth the requirements for continuing education as required for license renewal.

1. Generally

1. Certification

All licensees shall certify at time of license renewal to compliance with the continuing education requirement set forth in this chapter. The licensee's certification is subject to audit pursuant to Chapter 13 of the rules of the Office of Professional and Occupational Regulation, entitled "Uniform Rule for the Substantiation of Continuing Education Requirements." This continuing education requirement does not apply to the first renewal of an initial license.

2. Timely Completion

All continuing education activities must be completed during the license term for which credit is claimed. Continuing education hours earned in excess of the required hours for a license term may not be carried forward to a subsequent license term.

3. Application for Deferment

A licensee may apply for a continuing education deferment on the ground of undue hardship. The licensee shall document the hardship upon request of the board.

4. Limitations

Notwithstanding anything to the contrary in this chapter, continuing education credit will not be given for:

- A. Continuing education activities which in substantial part promote a specific company, individual or product; or
- B. Continuing education activities which primarily focus on practice economics;

2. Acupuncturist Standards For Continuing Education

1. General Requirement

For the license year beginning on November 1, 2014, an acupuncturist (other than an acupuncturist initially licensed during the license year beginning on November 1, 2013)

shall certify at time of license renewal to completion of 30 hours of continuing education during the two preceding license years as set forth in this chapter. For license years beginning on or after November 1, 2015, an acupuncturist shall certify at time of license renewal to completion of 15 hours of continuing education during the preceding license year as set forth in this chapter. To be eligible for credit, a continuing education activity must—

- A. Directly relate to the knowledge or clinical practice of acupuncture or Oriental medicine; and
- B. Be either sponsored or presented by a pre-approved organization pursuant to subsection 2 below, or be specifically approved by the board upon request as set forth in subsection 3 below.

2. Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers

Continuing education activities offered by sponsors and providers whose past offerings, in the judgment of the board, have consistently met the approval criterion of Section 2(1)(A) above are eligible for credit without need of request. The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license year and may update the list during the course of the license year as necessary. The board may monitor continuing education activities offered by pre-approved sponsors and providers for compliance with the approval criterion of Section 2(1)(A) above.

3. Specific Approval of Continuing Education Activities

A licensee may request the board to approve a continuing education activity that is not automatically approved pursuant to subsection 2 above. The request must include the information described in paragraphs A–F below. The board will review the request for compliance with Section 1(4) and Section 2(1)(A) above

- A. Name of the program, name of the sponsor, method of presentation and outline of the subject matter to be covered;
- B. Name, title, professional degrees, credentials and qualifications of the presenter;
- C. Date, location and daily schedule of the program, including all start times, end times and scheduled breaks; and
- D. [deleted]
- E. [deleted]
- F. If available, a copy of a brochure or any written material publicizing the program.

3. Naturopathic Doctor Standards For Continuing Education

1. General Requirement

A naturopathic doctor shall certify at time of license renewal to completion of 25 hours of continuing education during the preceding license year as set forth in this chapter. At least 7 of the 25 hours must be in pharmacology. To be eligible for credit, a continuing education activity must—

- A. Directly relate to the knowledge or clinical practice of naturopathic medicine; and
- B. Be either sponsored or presented by a pre-approved organization listed in subsection 3 below, or be specifically approved by the board upon request as set forth in subsection 4 below.

2. Additional Continuing Education for Holders of the Naturopathic Acupuncture Specialty Certification

A licensee who holds a naturopathic acupuncture specialty certification shall complete an additional 15 hours of continuing education specific to that specialty during the preceding license term. The additional 15 hours must meet the approval criteria for acupuncture continuing education activities set forth in Section 1(4) and Section 2(1)(A) above.

3. Automatic Approval of Continuing Education Activities Sponsored or Presented by Pre-Approved Sponsors and Providers

Continuing education activities offered by sponsors and providers whose past offerings, in the judgment of the board, have consistently met the approval criterion of Section 3(1)(A) above are eligible for credit without need of request. The board shall publish a current list of pre-approved sponsors and providers at the beginning of each license term and may update the list during the course of the license term as necessary. The board may monitor continuing education activities offered by pre-approved sponsors and providers for compliance with the approval criterion of Section 3(1)(A) above.

4. Specific Approval of Continuing Education Activities

A licensee may request the board to approve a continuing education activity that is not automatically approved pursuant to subsection 3 above. The request must include the information described in paragraphs A–D below. The board will review the request for compliance with Section 1(4) and (5) and Section 3(1)(A) above.

- A. Name of the program, name of the sponsor, method of presentation and outline of the subject matter to be covered;
- B. Name, title, professional degrees, credentials and qualifications of the presenter;
- C. Date, location and daily schedule of the program, including all start times, end times and scheduled breaks; and
- D. If available, a copy of a brochure or any written material publicizing the program.

STATUTORY AUTHORITY: 32 MRSA §§12503, 12516(1), 12526(3)

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 7: GROUNDS FOR DISCIPLINE

Summary: This chapter references the statutory grounds for discipline against licensees and includes examples of prohibited conduct that may result in discipline.

1. [deleted]

2. Grounds for Discipline

Grounds for discipline are set forth in 10 MRSA §8003(5-A)(A) and 32 MRSA §12503-A.

3. Examples of Grounds for Discipline

The following grounds for discipline in 10 MRSA §8003(5-A)(A) include but are not limited to the conduct described below.

1. Fraud, Deceit or Misrepresentation (10 MRSA §8003(5-A)(A)(1))

A. The practice of fraud, deceit or misrepresentation in obtaining a license includes, but is not limited to:

- (1) Falsification or misrepresentation of education or experience of an applicant;
- (2) Falsification or misrepresentation of a recommendation from a consultant or peer;
- (3) Cheating on a license examination;
- (4) Withholding or misrepresenting any information requested on the application, including any information regarding criminal or disciplinary action taken by any state against an applicant; or
- (5) Impersonating another applicant.

B. The practice of fraud, deceit or misrepresentation in connection with services rendered as an acupuncturist or naturopathic doctor includes, but is not limited to:

- (1) [deleted];
- (2) Misrepresenting the type or status of license held, the professional designation for the license held, or qualifications to practice;

- (3) Committing or aiding another to commit fraud, deceit or corruption in billing, payment or insurance reimbursement procedures;
- (4) Engaging in false, misleading or deceptive advertising;
- (5) Billing patients or third-party providers for services not rendered; or
- (6) Impersonating another licensee.

2. Aiding or Abetting Unlicensed Practice (10 MRSA §8003(5-A)(A)(8))

Aiding or abetting a person not duly licensed to represent him- or herself as an acupuncturist or naturopathic doctor includes, but is not limited to:

- A. Assisting another to practice beyond the scope of the license held, or without a license;
- B. Supervising or providing consultation to an unlicensed person representing him- or herself as licensed, or to a licensed person practicing beyond the scope or the license held; or
- C. Making a referral to an unlicensed person representing him- or herself as licensed, or to a licensed person practicing beyond the scope of the license held.

3. Gross Negligence, Incompetence or Misconduct (10 MRSA §8003(5-A)(A)(2))

Gross negligence, incompetence or misconduct in the practice of acupuncture or naturopathic medicine includes, but is not limited to:

- A. Intentionally or recklessly causing physical or emotional harm to a client or patient;
- A-1. Failing to practice acupuncture in accordance with the Clean Needle Technique Manual for Acupuncturists: Guidelines and Standards for the Clean and Safe Clinical Practice of Acupuncture, 6th Edition (National Acupuncture Foundation November 1, 2009).

The board incorporates the above-mentioned Clean Needle Technique Manual into this chapter by reference. Copies of the Clean Needle Technique Manual may be obtained through retail booksellers, including the following:

Amazon
www.amazon.com

Atlas Books
www.atlasbooks.com
30 Amberwood Pkwy.
Ashland, OH 44805
(800) 247-6553;

- B. Failing to maintain the confidentiality of client or patient information, except as otherwise required by law;

- C. Practicing acupuncture or naturopathic medicine when the licensee's physical or mental ability to practice is impaired by alcohol or drugs or when the health or safety of a client or patient may reasonably be deemed to be at risk due to the licensee's use of alcohol or drugs;
- D. Practicing acupuncture or naturopathic medicine when the licensee's physical or mental ability to practice is impaired by physical, psychological or mental impediment;
- E. [deleted];
- F. Failing to provide adequate supervision of an intern by an acupuncturist with supervisory responsibility over that intern;
- G. [deleted];
- H. [deleted];
- I. Paying, accepting or soliciting any payment or consideration for the referral of a client or patient;
- J. Falsifying, inaccurately recording or omitting information from client or patient records;
- K. Billing patients or third-party providers inaccurately, excessively or unfairly;
- L. Exercising undue influence on the client or patient, including the promotion for sale of goods, services or drugs, so as to exploit the client or patient for the financial gain of the acupuncturist or naturopathic doctor;
- M. Failing to maintain professional boundaries in relationships with patients or engaging in a dual relationship that impairs treatment, exploits practitioner/patient trust, or fosters an undue dependency of the patient on the practitioner.
- N. Failing to report an incident of child or adult abuse or neglect as mandated by state law;
- O. Engaging in conduct which evidences a lack of knowledge, or inability to apply principles or skills to carry out the practice of acupuncture or naturopathic medicine;
- P. [deleted];
- Q. Engaging in sexual misconduct with a patient. Sexual misconduct in the practice of acupuncture or naturopathic medicine is behavior that exploits the acupuncturist or naturopathic doctor-patient relationship in a sexual way. This behavior is nondiagnostic and/or nontherapeutic, may be verbal or physical, and may include expressions or gestures that have a sexual connotation or that a reasonable person would construe as such.

There are two levels of sexual misconduct: sexual violation and sexual impropriety. Behavior listed in both levels may constitute grounds for disciplinary action.

- (1) “Sexual violation” is any conduct by an acupuncturist or naturopathic doctor with a patient that is sexual or may be reasonably interpreted as sexual, even when initiated by or consented to by a patient, including but not limited to:
 - (a) Sexual intercourse, genital to genital contact;
 - (b) Oral to genital contact;
 - (c) Oral to anal contact or genital to anal contact;
 - (d) Kissing in a sexual manner (e.g. french kissing);
 - (e) Any touching of a body part for any purpose other than appropriate examination, treatment, or comfort, or where the patient has refused or has withdrawn consent;
 - (f) Encouraging the patient to masturbate in the presence of the acupuncturist or naturopathic doctor or masturbation by the acupuncturist or naturopathic doctor while the patient is present; and
 - (g) Offering to provide practice-related services, such as drugs, in exchange for sexual favors.
- (2) “Sexual impropriety” is behavior, gestures, or expressions by the acupuncturist or naturopathic doctor that are seductive, sexually suggestive, or sexually demeaning to a patient, including but not limited to the following. All circumstances will be considered in determining whether sexual impropriety has occurred:
 - (a) Kissing;
 - (b) Disrobing, draping practices or touching of the patient’s clothing that reflect a lack of respect for the patient’s privacy; deliberately watching a patient dress or undress, instead of providing privacy for disrobing;
 - (c) Subjecting a patient to an examination in the presence of another when the acupuncturist or naturopathic doctor has not obtained the verbal or written consent of the patient or when consent has been withdrawn;
 - (d) Examination or touching of genitals without the use of gloves;
 - (e) Inappropriate comments about or to the patient, including but not limited to making sexual comments about a patient’s body or

- underclothing; making sexualized or sexually demeaning comments to a patient, criticizing the patient's sexual orientation (homosexual, heterosexual, or bisexual); making comments about potential sexual performance during an examination or consultation (except when the examination or consultation is pertinent to the issue of sexual function or dysfunction); requesting details of sexual history or sexual likes or dislikes when not clinically indicated;
- (f) Using the acupuncturist or naturopathic doctor-patient relationship to solicit a date or initiate romantic relationship;
 - (g) Initiation by the acupuncturist or naturopathic doctor of conversation regarding the sexual problems, preferences, or fantasies of the acupuncturist or naturopathic doctor; and
 - (h) Examining the patient without verbal or written consent;
- R. Engaging in a sexual relationship with a former patient within the 6 month period following the end of the professional relationship; or
- S. Engaging in a sexual relationship with a former patient after the 6 month period following the end of the professional relationship that exploits the trust established during the professional relationship.
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STATUTORY AUTHORITY: 32 MRSA §12503

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 8: CODE OF ETHICS

Summary: This chapter sets forth a code of ethics applicable to licensed acupuncturists and naturopathic doctors.

1 Generally

Licensed acupuncturists and naturopathic doctors shall abide by the code of ethics set forth in this chapter.

2. Code of Ethics

Licensees shall:

1. Respect the rights and dignity of each person treated;
2. Accept and treat those seeking services in a nondiscriminatory manner;
3. Keep the patient informed by explaining treatments and outcomes;
4. Render the highest quality of care and make timely referrals to other health care professionals as may be appropriate;
5. Clearly and fully explain alternative treatments available when appropriate, including potential referral to other health care professionals;
6. Refrain from making public statements on the efficacy of Oriental or naturopathic medicine that are not supported by the generally accepted experience of the professions;
7. Respect the integrity of other forms of health care and other medical traditions and seek to develop collaborative relationships to achieve the highest quality of care for individual patients;
8. Report to the board a licensed acupuncturist or naturopathic doctor whose judgment or competency while treating patients is impaired by chemical dependency or physical or mental incapacity;
9. A licensee who offers medicines, medical devices, supplements or pre-made herbal formulations to patients shall offer alternative sources for obtaining such items as long as those alternative sources do not compromise safety or clinical effectiveness;

10. Refrain from recommending medicines or treatments of a secret nature, and adequately disclose the contents of medicines or the nature and description of treatments recommended to a patient;
 11. Provide or recommend only those services that are medically necessary or deemed to be beneficial to an individual patient;
 12. Transfer a patient's records to another health care provider at the request of the patient, in accordance with appropriate and applicable legal guidelines, in a reasonable and timely fashion, and at reasonable cost;
 13. Disclose to a patient any financial interests that may conflict with the provision of appropriate care by the licensee;
 14. Disclose any compensation from or ownership interest in a company that sells specific products as to which the licensee has made written or oral public statements; and
 15. Not accept gifts from any individual or entity that may be deemed to influence the licensee's professional clinical judgment.
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STATUTORY AUTHORITY: 32 MRSA §12503

EFFECTIVE DATE:

02 DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION

502 BOARD OF COMPLEMENTARY HEALTH CARE PROVIDERS

Chapter 9: FEES

Summary: This chapter sets forth the fees to be charged for all applications and licenses issued by the board under 32 MRSA chapter 113-B.

[deleted]

STATUTORY AUTHORITY: 32 MRSA §§12514(2) and 12526(1)

EFFECTIVE DATE: